

Senate Bill 123

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows circulation of state initiative petition with summary prepared by Attorney General. Requires filing of not less than 10 percent of total number of signatures required on state initiative petition to obtain ballot title. Allows intermediate filing of signatures for purpose of obtaining ballot title.

Applies to state initiative petitions for which prospective petition is filed on or after effective date of Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to election petitions; creating new provisions; amending ORS 250.045, 250.065, 250.067,
3 250.085 and 250.105; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 250.045 is amended to read:

6 250.045. (1) Before circulating a petition to initiate or refer a state measure under section 1,
7 Article IV, Oregon Constitution, the petitioner shall file with the Secretary of State a prospective
8 petition. The prospective petition for a state measure to be initiated shall contain a statement of
9 sponsorship signed by at least 25 electors. The statement of sponsorship shall be attached to a full
10 and correct copy of the measure to be initiated.

11 (2) The signatures in the statement of sponsorship must be accompanied by a certificate of the
12 county clerk of each county in which the electors who signed the statement reside, stating the
13 number of signatures believed to be genuine.

14 (3) The Secretary of State shall date and time stamp the prospective petition and specify the
15 form on which the petition shall be printed for circulation. The secretary shall approve or disap-
16 prove the form of any petition signature sheet within five business days after the signature sheet is
17 submitted for review by the secretary. The secretary shall retain the prospective petition.

18 [(2)] (4) The chief petitioner may amend the [*proposed initiated measure*] **state measure to be**
19 **initiated that has been** filed with the Secretary of State without filing another prospective petition,
20 if:

21 (a) The Attorney General certifies to the Secretary of State that the proposed amendment will
22 not substantially change the substance of the measure; and

23 [(b) *The deadline for submitting written comments on the draft title has not passed.*]

24 (b) **The Attorney General has not yet provided the draft initiative petition summary to**
25 **the Secretary of State under section 4 of this 2007 Act.**

26 [(3)] (5) The cover of an initiative or referendum petition shall designate the name and residence
27 address of not more than three persons as chief petitioners and shall contain instructions for per-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 sons obtaining signatures of electors on the petition. The instructions shall be adopted by the Sec-
 2 retary of State by rule. The cover of a referendum petition shall contain the final measure summary
 3 described in ORS 250.065 (1). *[If a petition seeking a different ballot title is not filed with the Supreme*
 4 *Court by the deadline for filing a petition under ORS 250.085, the cover of an initiative petition shall*
 5 *contain the ballot title described in ORS 250.067 (2). However, if the Supreme Court has reviewed the*
 6 *ballot title, the cover of the initiative petition shall contain the title certified by the court.]* **The cover**
 7 **of an initiative petition shall contain the final initiative petition summary prepared by the**
 8 **Attorney General under section 4 of this 2007 Act under the heading “INITIATIVE PETI-**
 9 **TION SUMMARY FOR CIRCULATION.”**

10 [(4)] (6) The chief petitioners shall include with the prospective petition a statement declaring
 11 whether one or more persons will be paid money or other valuable consideration for obtaining sig-
 12 natures of electors on the initiative or referendum petition. After the prospective petition is filed,
 13 the chief petitioners shall notify the filing officer not later than the 10th day after any of the chief
 14 petitioners first has knowledge or should have had knowledge that:

15 (a) Any person is being paid for obtaining signatures, when the statement included with the
 16 prospective petition declared that no such person would be paid.

17 (b) No person is being paid for obtaining signatures, when the statement included with the pro-
 18 spective petition declared that one or more such persons would be paid.

19 [(5)(a)] (7)(a) Each sheet of signatures on an initiative petition shall contain the *[caption of the*
 20 *ballot title]* **final initiative petition summary prepared under section 4 of this 2007 Act.** Each
 21 sheet of signatures on a referendum petition shall contain the subject expressed in the title of the
 22 Act to be referred.

23 (b) Each sheet of signatures on an initiative or referendum petition shall:

24 (A) Contain only the signatures of electors of one county; and

25 (B) If one or more persons will be paid for obtaining signatures of electors on the petition,
 26 contain a notice stating: “Some Circulators For This Petition Are Being Paid.” The notice shall be
 27 in boldfaced type and shall be prominently displayed on the sheet.

28 (c) The Secretary of State by rule shall adopt a method of designation to distinguish signature
 29 sheets of referendum petitions containing the same subject reference and being circulated during the
 30 same period.

31 [(6)] (8) The reverse side of the cover of an initiative or referendum petition shall be used for
 32 obtaining signatures on an initiative or referendum petition.

33 [(7)] (9) Not more than 20 signatures on the signature sheet of the initiative or referendum pe-
 34 tition *[shall]* **may** be counted. The circulator shall certify on each signature sheet of the initiative
 35 or referendum petition that the individuals signed the sheet in the presence of the circulator and
 36 that the circulator believes each individual is an elector.

37 [(8)] (10) The person obtaining signatures on the petition shall carry at least one full and correct
 38 copy of the measure to be initiated or referred and shall allow any person to review a copy upon
 39 request of the person.

40 **SECTION 2.** ORS 250.065 is amended to read:

41 250.065. (1) When a prospective petition for a state measure to be referred is filed with the
 42 Secretary of State, the secretary shall authorize the circulation of the petition using the final
 43 measure summary of the latest version of the printed, engrossed measure in lieu of the ballot title.
 44 **On the next business day** after the referendum petition has been filed containing the required
 45 number of verified signatures, the Secretary of State *[immediately]* shall send two copies of the

1 prospective petition to the Attorney General.

2 *[(2) When an approved prospective petition for a state measure to be initiated is filed with the*
3 *Secretary of State, the secretary immediately shall send two copies of it to the Attorney General.]*

4 *[(3) Not later than the fifth business day after receiving the copies of the prospective petition for*
5 *a state measure to be initiated, the Attorney General shall provide a draft ballot title for the state*
6 *measure to be initiated and return one copy of the prospective petition and the ballot title to the Sec-*
7 *retary of State.]*

8 *[(4)]* (2) Not later than the 10th business day after receiving the copies of the prospective peti-
9 tion for a state measure to be referred, the Attorney General shall provide a draft ballot title for
10 the state measure to be referred and return one copy of the prospective petition and the draft ballot
11 title to the Secretary of State.

12 **SECTION 3. Sections 4 and 5 of this 2007 Act are added to and made a part of ORS**
13 **chapter 250.**

14 **SECTION 4. (1) On the next business day after an approved prospective petition for a**
15 **state measure to be initiated is filed with the Secretary of State, the secretary shall send two**
16 **copies of the petition to the Attorney General.**

17 (2) Not later than the fifth business day after receiving the copies of the prospective pe-
18 tition for a state measure to be initiated, the Attorney General shall provide a draft initiative
19 petition summary for the state measure to be initiated and return one copy of the prospec-
20 tive petition and the draft initiative petition summary to the Secretary of State. The draft
21 initiative petition summary shall be a statement of not more than 75 words that accurately
22 and impartially summarizes the measure. The draft initiative petition summary for an initi-
23 ative amendment to the Oregon Constitution shall begin with the phrase "AMENDS CON-
24 STITUTION," printed in boldfaced capital letters, which shall not be counted for purposes
25 of the 75-word initiative petition summary limit.

26 (3) The Secretary of State, upon receiving a draft initiative petition summary from the
27 Attorney General under subsection (2) of this section, shall provide reasonable statewide
28 notice of having received the draft initiative petition summary and of the public's right to
29 submit written comments as provided in this section. The Secretary of State by rule shall
30 specify the means for providing reasonable statewide notice for submitting comments on a
31 draft initiative petition summary.

32 (4) Written comments concerning a draft initiative petition summary may be submitted
33 to the Secretary of State not later than the 10th business day after the Secretary of State
34 receives the draft initiative petition summary from the Attorney General. On the next busi-
35 ness day after the deadline for submitting comments to the Secretary of State, the Secretary
36 of State shall send a copy of all written comments to the Attorney General. The Secretary
37 of State shall maintain a record of written comments received.

38 (5) The Attorney General shall consider any written comments submitted under sub-
39 section (4) of this section and shall provide to the Secretary of State a final initiative petition
40 summary not later than the 10th business day after receiving the comments from the Sec-
41 retary of State. The final initiative petition summary is not subject to review by a court.

42 (6) Upon receiving the final initiative petition summary, the Secretary of State may au-
43 thorize circulation of the petition containing the final initiative petition summary as provided
44 in ORS 250.045.

45 **SECTION 5. (1) Except as provided in subsection (3)(b) of this section, for the purpose**

1 of qualifying for preparation of a ballot title for a state measure to be initiated, a chief
2 petitioner of the state measure to be initiated shall file with the Secretary of State:

3 (a) Signature sheets containing a number of signatures that is not less than 10 percent
4 of the total number of signatures of electors required on the petition; and

5 (b) An affidavit certifying the petitioner's good faith belief based upon reasonable inquiry
6 that the signature sheets contain a number of signatures that is not less than 10 percent
7 of the total number of signatures of electors required on the petition.

8 (2) Not later than the third business day after receiving a filing under subsection (1) of
9 this section, the Secretary of State shall verify whether the signature sheets contain a
10 number of signatures that is not less than 10 percent of the total number of signatures of
11 electors required on the petition. For purposes of this subsection, the Secretary of State is
12 not required to verify whether the signatures are valid signatures of electors that may be
13 counted under ORS 250.105.

14 (3)(a) On the next business day after the Secretary of State determines that the re-
15 quirements of subsection (1) of this section have been satisfied, the Secretary of State shall
16 send two copies of the prospective petition to the Attorney General.

17 (b) If a filing has not been made under subsection (1) of this section, the Secretary of
18 State shall send two copies of the initiative petition to the Attorney General on the next
19 business day after an initiative petition is filed with the Secretary of State for verification
20 of the required number of signatures under ORS 250.105.

21 (4) Not later than the fifth business day after receiving copies of a prospective petition
22 or an initiative petition, the Attorney General shall provide a draft ballot title for the state
23 measure to be initiated and return one copy of the prospective petition or initiative petition
24 and the draft ballot title to the Secretary of State.

25 (5) A petition for a state measure to be initiated may be circulated for additional signa-
26 tures as provided in ORS 250.045 during the ballot title processes described in this section
27 and ORS 250.067 and 250.085 until the filing deadline for signatures for the state measure to
28 be initiated.

29 **SECTION 6.** ORS 250.067 is amended to read:

30 250.067. (1) The Secretary of State, upon receiving a draft ballot title from the Attorney General
31 under ORS 250.065 or 250.075 **or section 5 of this 2007 Act**, shall provide reasonable statewide
32 notice of having received the draft ballot title and of the public's right to submit written comments
33 as provided in this section. Written comments concerning a draft ballot title *[shall]* **may** be sub-
34 mitted to the Secretary of State not later than the 10th business day after the Secretary of State
35 receives the draft title from the Attorney General. On the next business day after the deadline for
36 submitting comments to the Secretary of State, the secretary shall send a copy of all written com-
37 ments to the Attorney General. The secretary shall maintain a record of written comments received.

38 (2) The Attorney General shall consider any written comments submitted under subsection (1)
39 of this section and shall certify to the Secretary of State either the draft ballot title or a revised
40 ballot title not later than the 10th business day after receiving the comments from the Secretary
41 of State. If no written comments are submitted to the Secretary of State, the Attorney General shall
42 certify the draft ballot title not later than the 20th business day after the Secretary of State receives
43 the draft title from the Attorney General. The Secretary of State shall furnish the chief petitioner
44 with a copy of the ballot title.

45 (3) Unless the Supreme Court certifies a different ballot title, the ballot title provided by the

1 Attorney General under subsection (2) of this section shall be the title printed in the voters' pam-
2 phlet and on the ballot.

3 (4) If a petition for review of a ballot title is filed with the Supreme Court as provided in ORS
4 250.085, the Secretary of State shall file with the Supreme Court a copy of the written comments
5 received as part of the record on review of the ballot title.

6 (5) The Secretary of State by rule shall specify the means for providing reasonable statewide
7 notice for submitting comments on a draft ballot title.

8 **SECTION 7.** ORS 250.085 is amended to read:

9 250.085. (1) Any elector dissatisfied with a ballot title prepared by the Legislative Assembly for
10 a measure referred to the people by the assembly and filed with the Secretary of State may petition
11 the Supreme Court seeking a different title. The petition shall state the reasons that the title filed
12 with the Secretary of State does not substantially comply with the requirements of ORS 250.035.

13 (2) Any elector dissatisfied with a ballot title for an initiated or referred measure certified by
14 the Attorney General and who timely submitted written comments on the draft ballot title may pe-
15 tition the Supreme Court seeking a different title. The petition shall state the reasons that the title
16 filed with the Secretary of State does not substantially comply with the requirements of ORS
17 250.035.

18 (3) The petition shall name the Attorney General as the respondent and must be filed:

19 (a) Not later than the 10th business day after the Attorney General certifies a ballot title to the
20 Secretary of State; or

21 (b) If the title is provided by the Legislative Assembly under ORS 250.075, not later than the
22 10th business day after the Legislative Assembly files the ballot title with the Secretary of State.

23 (4) An elector filing a petition under this section shall notify the Secretary of State in writing
24 that the petition has been filed. The notice must be received in the office of the Secretary of State
25 not later than 5 p.m. on the next business day following the day the petition is filed.

26 (5) The Supreme Court shall review the title for substantial compliance with the requirements
27 of ORS 250.035.

28 (6) When reviewing a title prepared by the Attorney General, the Supreme Court *[shall]* **may**
29 not consider arguments concerning the ballot title not presented in writing to the Secretary of State
30 unless the court determines that the argument concerns language added to or removed from the
31 draft title after expiration of the comment period provided in ORS 250.067.

32 (7) The review by the Supreme Court shall be conducted expeditiously to ensure the orderly and
33 timely *[circulation of the petition or]* conduct of the election at which the measure is to be submitted
34 to the electors.

35 (8) If the Supreme Court determines that the title certified by the Attorney General or prepared
36 by the Legislative Assembly substantially complies with the requirements of ORS 250.035, the court
37 shall certify the title to the Secretary of State. If the Supreme Court determines that the title cer-
38 tified by the Attorney General or prepared by the Legislative Assembly does not substantially
39 comply with the requirements of ORS 250.035, the court shall modify the ballot title and certify the
40 ballot title to the Secretary of State or refer the ballot title to the Attorney General for modifica-
41 tion.

42 (9) Not later than five business days after the Supreme Court refers a ballot title to the Attor-
43 ney General under this section, the Attorney General shall file a modified ballot title with the Su-
44 preme Court and serve copies of the modified ballot title on all parties to the ballot title review
45 proceeding. If no party to the ballot title review proceeding files an objection to the modified ballot

1 title within five business days after the date the modified ballot title is filed, the Supreme Court
 2 shall certify the modified ballot title to the Secretary of State and enter an appellate judgment the
 3 next judicial day. If any of the parties to the ballot title review proceeding timely files a petition
 4 objecting to the modified ballot title, the Supreme Court shall review the modified ballot title to
 5 determine whether the modified ballot title substantially complies with the requirements of ORS
 6 250.035.

7 (10) Upon the filing of a petition under subsection (9) of this section objecting to a modified
 8 ballot title:

9 (a) If the Supreme Court determines that the modified ballot title substantially complies with the
 10 requirements of ORS 250.035, the court shall certify the modified ballot title to the Secretary of
 11 State; or

12 (b) If the Supreme Court determines that the modified ballot title does not substantially comply
 13 with the requirements of ORS 250.035, the court shall modify the ballot title and certify the ballot
 14 title to the Secretary of State or refer the modified ballot title to the Attorney General for addi-
 15 tional modification and further proceedings under subsection (9) of this section.

16 **SECTION 8.** ORS 250.105 is amended to read:

17 250.105. (1)(a) An initiative or referendum petition relating to a state measure [*shall*] **must** be
 18 filed with the Secretary of State for the purpose of verifying whether the petition contains the re-
 19 quired number of signatures of electors.

20 **(b) If a filing of signatures on a prospective petition for a state measure to be initiated**
 21 **has been made under section 5 (1) of this 2007 Act, signatures filed under section 5 (1) of this**
 22 **2007 Act shall be considered under this section for the purpose of verifying whether the ini-**
 23 **tiative petition contains the required number of signatures of electors.**

24 (c) The filed **initiative or referendum** petition [*shall*] **must** contain only original signatures.
 25 **The Secretary of State shall verify** each petition [*shall be verified*] in the order in which the pe-
 26 titions are filed with the secretary.

27 (2) An initiative or referendum petition relating to a state measure [*shall*] **may** not be accepted
 28 for filing if it contains less than 100 percent of the required number of signatures.

29 (3) If an initiative or referendum petition is submitted not less than 165 days before the election
 30 at which the proposed measure is to be voted upon and if the Secretary of State determines that
 31 insufficient signatures have been submitted but the deadline for filing the petition has not passed,
 32 the petitioners may submit additional signatures.

33 (4) The Secretary of State by rule shall designate a statistical sampling technique to verify
 34 whether a petition contains the required number of signatures of electors. A petition [*shall*] **may**
 35 not be rejected for the reason that it contains less than the required number of signatures unless
 36 two separate sampling processes both establish that the petition lacks the required number of sig-
 37 natures. The second sampling must contain a larger number of signatures than the first sampling.
 38 If two samplings are required under this subsection, the total number of signatures verified on the
 39 petition shall be not less than five percent of the total number of signatures on the petition.

40 (5) For purposes of estimating the number of duplicate signatures contained in a petition, the
 41 Secretary of State shall apply at least an eight percent duplication rate in the first sampling of
 42 signatures on all petitions. If a second sampling of signatures is required under subsection (4) of this
 43 section, the secretary shall calculate an estimated signature duplication rate for each petition for
 44 which a second sampling is required. For purposes of calculating an estimated signature duplication
 45 rate for each petition for which a second sampling is required, the county clerks shall report to the

1 secretary the number of electors determined to have signed a specific petition more than once.

2 (6) When verifying signatures for a state initiative or referendum petition, the county clerk shall
3 identify on an elector's voter registration record or other database that the elector signed the spe-
4 cific initiative or referendum petition.

5 (7) The Secretary of State may employ professional assistance to determine the sampling tech-
6 nique to be designated under subsection (4) of this section.

7 **SECTION 9.** (1) Sections 4 and 5 of this 2007 Act and the amendments to ORS 250.045,
8 250.065, 250.067 and 250.105 by sections 1, 2, 6 and 8 of this 2007 Act apply to petitions to ini-
9 tiate a state measure for which a prospective petition is filed on or after the effective date
10 of this 2007 Act.

11 (2) The amendments to ORS 250.085 by section 7 of this 2007 Act apply to:

12 (a) Petitions seeking a different ballot title filed with the Supreme Court prior to the ef-
13 fective date of this 2007 Act for which the Supreme Court has not yet certified a ballot title
14 as of the effective date of this 2007 Act; and

15 (b) Petitions seeking a different ballot title filed with the Supreme Court on or after the
16 effective date of this 2007 Act.

17 **SECTION 10.** This 2007 Act being necessary for the immediate preservation of the public
18 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
19 on its passage.

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